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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO**

In re:

CONE ENGINEERING CONTRACTORS,
INC., a California Corporation,

Reorganized Debtor.

Civil No. CV 05-02137 PJH

Bankruptcy Case No. 02-45803 J11

Chapter 11 Proceeding

**STIPULATION FURTHER
EXTENDING TIME TO FILE
BRIEFS; [~~PROPOSED~~] ORDER
THEREON**

This Stipulation is entered into by and between Reorganized Debtor Cone Engineering Contractors, Inc. (“Appellant”) and Claimant State Compensation Insurance Fund (“Appellee”), and is made with reference to the following facts and circumstances:

1. On May 4, 2005 the United States Bankruptcy Court for the Northern District of California (“Bankruptcy Court”) entered its order denying Appellant’s objections to the claims filed by Appellee in Appellant’s bankruptcy case (“Order”), and a memorandum in support of the Order entitled “Decision: Debtor’s Objections to Amended Claims Nos. 168 and 172 Filed By State Compensation Insurance Fund” (the “Memorandum”).

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1 2. On or about May 13, 2005, Appellant filed its Notice of Appeal Re Order
2 Overruling Debtor's Objections To Amended Claims Nos. 168 And 172 Filed By State
3 Compensation Insurance Fund, along with its Statement Of Election Pursuant To 28 U.S.C.
4 Section 158(C) Of The Notice Of Appeal Re Order Overruling Debtor's Objections To
5 Amended Claims Nos. 168 And 172 Filed By State Compensation Insurance Fund.

6 3. Both Appellant and Appellee have filed their respective Statements of Issues
7 and Designation of Documents to be Included in the Record on Appeal.

8 4. On June 13, 2005, this Court filed its Notice of Briefing. Pursuant to the
9 Notice of Briefing, this Court fixed the dates for the filing of Appellant's brief, which date
10 triggers the filing date for the Appellee's brief and Appellant's reply brief.

11 5. Appellant and Appellee thereafter filed stipulations extending the time to file
12 briefs with respect to the appeal, and the Court entered orders approving such stipulations.

13 6. Appellant and Appellee have been engaged in negotiations to settle the issues
14 raised by the appeal. A settlement has now been reached and documented and is in the
15 process of being executed by the parties. In order to have time sufficient to finalize the
16 settlement, and to obtain from the Bankruptcy Court an order approving the settlement,
17 Appellant and Appellee desire to extend, for a period of approximately thirty (30) days from
18 the date of this Stipulation, all of the dates associated with the Notice of Briefing.

19 7. Upon Appellant's obtaining from the Bankruptcy Court an order approving the
20 settlement negotiated between Appellant and Appellee, Appellant will withdraw its appeal
21 pending before this Court.

22 **NOW THEREFORE**, based upon the foregoing recitals, and for good and valuable
23 consideration, the receipt and sufficiency of which are acknowledged by the parties, and the
24 parties intending to be legally bound hereby, the parties hereby stipulate and agree as
25 follows:

26 A. The time within which Appellant must file and serve its brief is extended
27 to and including October 10, 2005.

1 B. Appellee's brief shall be filed and served twenty (20) days after service
2 of Appellant's brief.

3 C. Appellant's reply brief, if any, shall be filed and served ten (10) days
4 after service of Appellee's brief.

5 D. No notice or appearance shall be necessary to effectuate the foregoing.

6
7 DATED: September 12, 2005

**WINTHROP COUCHOT
PROFESSIONAL CORPORATION**

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9
10 By: /s/
Robert E. Opera
11 Attorneys for Cone Engineering Contractors,
12 Inc., Appellant

13 DATED: September 13, 2005

**STATE COMPENSATION INSURANCE
FUND**

14
15 By: /s/
16 James E. Armstrong
17 Attorney for State Compensation Insurance
18 Fund, Appellee

19 **O R D E R**

20 Based upon the foregoing stipulation of the parties, **IT IS SO ORDERED.**

21
22 DATED: 9/15/05

By: 
23 UNITED STATES DISTRICT JUDGE

24 NO FURTHER CONTINUANCES WILL
25 BE GRANTED.
26
27
28

CERTIFICATE OF SERVICE

I, Paul S. Tu, declare as follows:

I am employed in the County of Orange, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 660 Newport Center Drive, 4th Floor, Newport Beach, California 92660, in said County and State.

On September 13, 2005 I served the following document: **STIPULATION FURTHER EXTENDING TIME TO FILE BRIEFS; [PROPOSED] ORDER THEREON** on each of the interested parties:

<u>Reorganized Debtor</u> Roger Cone, President Cone Engineering Contractors, Inc. 4 Crow Canyon Court, Suite 100 San Ramon, CA 94583	Office of the United States Trustee Attention: Andrew Velez-Rivera, Esq. 1301 Clay Street, Suite 690N Oakland, CA 94612-5217
State Compensation Insurance Fund James E. Armstrong, Esq. 1275 Market Street San Francisco, CA 94103	

by the following means of service:

<input checked="" type="checkbox"/>	BY MAIL: I placed a true copy in a sealed envelope addressed as indicated above, on the above-mentioned date. I am familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. Under that practice it would be deposited with the U.S. Postal Service on that same date with postage thereon fully prepaid at Newport Beach, California in the ordinary course of business I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
<input checked="" type="checkbox"/>	I am employed in the office of Winthrop Couchot Professional Corporation, Robert E. Opera, is a member of the bar of this court.
<input checked="" type="checkbox"/>	(FEDERAL) I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 13, 2005, at Newport Beach, California.

/s/

PAUL S. TU

Initials